

C. DUKES SCOTT  
EXECUTIVE DIRECTOR

P.O. Box 11263  
Columbia, S.C. 29211



Phone: (803) 737-0800  
Fax: (803) 737-0801

DAN E. ARNETT  
CHIEF OF STAFF

177329

January 9, 2006

Mr. Charles L.A. Terreni  
Chief Clerk/Administrator  
South Carolina Public Service Commission  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210

SC PUBLIC SERVICE  
COMMISSION

2006 JAN -9 PM 4:40

RECEIVED

Re: Generic Proceeding to Investigate Emergency Services Continuity Plans  
Docket No. 2005-100-C

Dear Mr. Terreni:

On December 8, 2005, the Office of Regulatory Staff notified the Commission that several parties to the above referenced docket met to discuss certain issues raised in this proceeding. During these working meetings, the participating companies reached a consensus on this matter and drafted a document identifying the agreed upon procedures and requirements for Emergency Continuity of Services Plans. ORS, on behalf of the companies involved in these negotiations, requested that the Commission establish a workshop on January 18, 2006, where this resolution could be discussed in an open forum. As well, ORS agreed to circulate the consensus document to those companies unable to participate in the working meetings. Accordingly, ORS would then file the document with the Commission, including any revisions agreed upon by the parties.

As of today, ORS has not received any additional comments to the consensus document circulated to all parties of record and I have enclosed the Consensus Document/Proposed Order for the Commission's review. Should any concerns be raised prior to the workshop on January 18, ORS will work with all parties of record in order to resolve any issues and will present any revisions to the Commission at that time.

Thank you for your consideration of this proposal. Please let me know if you have any questions.

Sincerely,

Benjamin P. Mustian

cc: Parties of Record

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**  
**DOCKET NO. 2005-100-C**

IN RE:

Generic Proceeding to Investigate	)	<b>CONSENSUS DOCUMENT/ PROPOSED ORDER TO BE DISCUSSED IN COMMISSION WORKSHOP</b>
Emergency Services Continuity	)	
Plans	)	
_____	)	

The Commission established this generic docket to investigate emergency service continuity plans in general and their various ramifications.<sup>1</sup> After several parties intervened and pre-filed testimony in this docket, Verizon South, Inc. (“Verizon”), the Office of Regulatory Staff (“ORS”), BellSouth Telecommunications, Inc. (“BellSouth”), and United Telephone of the Carolinas (“Sprint”) requested that the Commission postpone the hearing in this docket so a working group could be established in an effort to reach consensus on the issues raised in this proceeding. The Commission subsequently entered an Order granting this request.<sup>2</sup>

The participants in the working group<sup>3</sup> have presented evidence regarding their collective experiences and recommendations in workshop meetings with the other parties

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<sup>1</sup> See Order Dismissing Petition and Establishing Generic Proceeding, *In Re: Tariff Filing by BellSouth*, Order No. 2003-218 in Docket No. 2003-89-C (April 3, 2003).

<sup>2</sup> See Order Granting Request for Postponement of Hearing, *In Re: Generic Proceeding to Investigate Emergency Services Continuity Plans*, Order No. 2005-462 in Docket No. 2005-100-C (September 7, 2005).

on September 14 and October 6, 2005. Additionally, the other parties to this docket were made aware of these recommendations and these matters were discussed in an open workshop before the Commission. The consensus opinion of the parties to this proceeding is that the issues the Commission identified in this docket arise when a competitive local exchange carrier (“CLEC”) discontinues service in this State without complying with applicable law that, among other things, requires such a CLEC to provide notice to its end user customers.<sup>4</sup> This often occurs when a CLEC orders services from an incumbent local exchange carrier (“ILEC”), fails to pay for those services, and as a result, the ILEC takes treatment action that results in interruption of the CLEC’s end users’ service.

These situations have not been common in South Carolina, and when they have arisen, they typically have involved CLECs that predominately served end users who owed unpaid balances to the ILEC and, therefore, were not eligible to receive service from the ILEC. Additionally, these situations have, at times, created issues that affect the CLEC’s end users. In some cases, the end users have received little or no notice from the CLEC that it is discontinuing service. Also, in some cases the CLEC has placed preferred carrier freezes on its end users’ accounts, and the end users have had difficulty obtaining service from another provider without changing telephone numbers.

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<sup>3</sup> The following parties participated in the working group: ORS, South Carolina Telephone Coalition, BellSouth, Sprint, US LEC and Verizon.

<sup>4</sup> See, e.g., 47 C.F.R. §63.71; First Report & Order in CC Docket No. 00-257 and Fourth Report and Order in CC Docket No. 94-129, *In the Matter of 2000 Biennial Review – Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers; Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, 16 F.C.C. Rcd 11218 (May 7, 2001); 47 C.F.R. §64.1120. See also S.C. Code Ann. §58-9-300.

Based upon careful consideration of the evidence presented in this docket, the Commission finds that any action it takes in this docket must appropriately balance: (1) an end user's freedom to choose from among any alternative service options that are available; and (2) a service provider's right to decline to provide service to an end user for any reason allowed by controlling authority (including without limitation tariff provisions and Commission rules, regulations, and orders); and (3) the obligations of the CLEC that is exiting the market. The Commission finds that taking the following action described below will appropriately balance these interests.

Thus, it is hereby ordered that:

1. Each ILEC shall cooperate with the ORS to develop a mutually-acceptable process for the ILEC to notify the ORS when, based on the ILEC's experience, treatment action for breach of contract or nonpayment for wholesale services that will result in interruption of service to a CLEC's end users is imminent. Such notification shall include any information in the ILEC's possession that may assist the ORS in contacting the appropriate representatives of the CLEC to discuss the situation. The ILEC may, at its option, meet this notification requirement by copying the ORS on termination notices issued to a CLEC and updating the ORS if the CLEC timely satisfies the claim. Such notification must be provided to the ORS at least five (5) days prior to the termination of service to the CLEC.

2. After receiving the notification identified in paragraph (1), the ORS shall contact the CLEC and take measures to ensure that the CLEC complies with its obligation to notify its end user customers sufficiently in advance of the date on which the ILEC will terminate wholesale service to the CLEC. In no event may the ORS shift

the burden of providing notice to CLEC customers to the ILEC. If the ORS believes the Commission should address any issues related to such termination of CLEC service on an expedited basis (including without limitation removal of preferred carrier freezes or obtaining information necessary for the ORS or the Commission to provide notice to CLEC end users where the CLEC fails to do so), the ORS should file an appropriate pleading and conspicuously designate the pleading as requiring expedited consideration pursuant to this Order. The Commission will use all appropriate measures, including without limitation the use of hearing officers, to consider and, if appropriate, rule on such matters on an emergency and expedited basis.

3. Unless the Commission rules otherwise based on a finding of extraordinary circumstances and after notice and opportunity for hearing, if the ILEC complies with the notice provisions of paragraph (1), then in no event shall the ILEC be obligated to provide service to end user customers of a CLEC after termination of service to the CLEC unless the end user customer specifically requests service from the ILEC and otherwise satisfies eligibility requirements imposed by the ILEC on other customers in the normal course of business.

4. A copy of this Order shall be mailed to the contact address on file with the Commission for each telephone utility in this State, and a copy of this Order shall be posted on the Commission's website.

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**  
**DOCKET NO. 2005-100-C**

IN RE:

Generic Proceeding to Investigate                     )  
Emergency Services Continuity Plans                 )  
\_\_\_\_\_ )

**CERTIFICATE OF SERVICE**

RECEIVED  
2006 JAN -9 PM 4:40  
SC PUBLIC SERVICE  
COMMISSION

This is to certify that I, Pamela McMullan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **CONSENSUS DOCUMENT/PROPOSED ORDER** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Stan Bugner, State Director  
**Verizon South, Inc.**  
1301 Gervais Street, Suite 825  
Columbia, SC 29201

Scott Elliott, Esquire  
**Elliott & Elliott, P.A.**  
721 Olive Street  
Columbia, SC 29205

Margaret M. Fox, Esquire  
**McNair Law Firm, P.A.**  
Post Office Box 11390  
Columbia, SC 29211

Steven W. Hamm, Esquire  
Jo Anne Wessinger Hill, Esquire  
**Richardson Plowden Carpenter & Robinson, P.A.**  
Post Office Box 7788  
Columbia, SC 29202

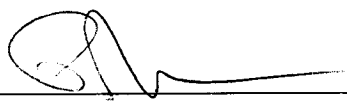
John J. Pringle, Esquire  
**Ellis Lawnhorne & Sims, P.A.**  
Post Office Box 2285  
Columbia, SC 29202

Bonnie D. Shealy, Esquire  
**Robinson McFadden & Moore, P.C.**  
Post Office Box 944  
Columbia, SC 29202

Patrick W. Turner, Esquire  
**BellSouth Telecommunications, Inc.**  
1600 Williams Street, Suite 5200  
Columbia, SC 29201

William R.L. Atkinson, Esquire  
**United Telephone & Sprint Communications**  
3065 Cumberland Circle, Mailstop GAATLD0602-612  
Atlanta, GA 30339

Leigh A. Hyer, Esquire  
**Verizon South, Incorporated**  
201 North Franklin Street, 37<sup>th</sup> Fl  
Tampa, FL 33602

A handwritten signature in black ink, appearing to read 'Pamela McMullan', is written over a horizontal line.

Pamela McMullan

January 9, 2006  
Columbia, South Carolina